

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES EARL WILLIAMS,

Civil No. 09-3066 (DWF/FLN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Sgt. JEFFREY BLY,
Lt. ROBERT URAN,
Prison Official MICHAEL TADYCH, and
C.O. MARC FREER,

Defendants.

Plaintiff, a state prison inmate, commenced this action by filing a pleading entitled "Complaint For Violation Of Civil Rights Under 42 U.S.C. 1983." (Docket No. 1.) The Court previously examined Plaintiff's complaint, pursuant to 28 U.S.C. § 1915A, and found it to be gravely deficient. Therefore, in an order dated October 6, 2009, (Docket No. 3), the Court informed Plaintiff that if he intended to continue to prosecute this action, he would have to file an amended complaint. The order provided a list of specific pleading guidelines, and directed Plaintiff to file an amended complaint, as well as all necessary marshal service forms, by no later than December 1, 2009. The order also expressly advised Plaintiff that if he did not file a new pleading and his marshal service forms by the prescribed deadline, the Court would recommend that the action be dismissed without prejudice for failure to prosecute.

The deadline for filing an amended complaint and marshal service forms has now expired. To date, however, Plaintiff has not complied with the Court's prior order, nor has he offered any excuse for his failure to do so. Indeed, Plaintiff has not communicated with

the Court at all since he filed his complaint. Therefore, the Court will now recommend, in accordance with the prior order, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: December 8, 2009

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **December 22, 2009**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.